

**STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**



**SMALL BUSINESS RESERVE VENDORS ONLY
REQUEST FOR PROPOSALS (RFP)**

**Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215**

Public Relations and Outreach Services

MHCC 09-012

requirements established by the specifications herewith.

Minority Business Enterprises Are Encouraged To Respond To This Solicitation.

Publication Date: April 17, 2009

Note: Please see Part IV, Section 2.14, clause #2 for cautions regarding the confidentiality of proposals submitted in response to this RFP.

Rev 02/08

ENCOURAGEMENT OF PARTICIPATION STATEMENT

The State of Maryland is actively seeking to increase participation from businesses and organizations in the procurement of goods and/or services. Accordingly, all potential bidders/offerors are encouraged to complete the "Notice to Vendors/Contractors," which is on the following page, supplying comments and/or the reason(s) for declining to bid or to make an offer in response to this solicitation. Please return this form either with your submission package or in an envelope addressed to the issuing office listed on the Key Information Summary Sheet, even if you are not submitting a proposal.

Vendor Comments

In order to help us improve the quality of State solicitations, and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form and submit it to the Procurement Officer listed on the following page. Thank you for your assistance.

Bid/Proposal Number: MHCC 09-012 Entitled: Public Relations and Outreach Services

I. If you are not bidding, please indicate why:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not in our business line.
- ☐ We lack experience in the work/commodities required.
- ☐ The scope of work is beyond our current capacity.
- ☐ We cannot be competitive (Please explain below.)
- ☐ Specifications are either unclear or too restrictive. (Please explain below.)
- ☐ Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- ☐ Time for completion is insufficient.
- ☐ Bonding/insurance requirements are prohibitive. (Please explain below.)
- ☐ Doing business with government is simply too complicated.
- ☐ Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory (Please explain below.)
- ☐ Other: _____

II. Please explain your response further, offer suggestions or express concerns. (Use the back for additional information.)

REMARKS: _____

OPTIONAL:

Vendor Name: _____ Date _____

Contact Person: _____ Phone (____) _____ - _____

Address or e-mail: _____

Thank You!!!

KEY INFORMATION SUMMARY PAGE

Title of RFP: - Public Relations and Outreach Services

RFP Issue Date: - **April 17, 2009**

RFP Number: MHCC 09-012

Description of services: Development of comprehensive public relations campaign for the Maryland Health Care Commission which results in enrollment in the Health Insurance Partnership program and increased awareness around our Consumer Guides, public reporting activities and the policy reports produced by our five Centers.

Minimum Requirement: In order to respond to the "Services to be Performed" in this solicitation, the vendor must be certified with the Department of General Services as a Small Business.

Procurement Method: Competitive Sealed Proposals (COMAR 21.05.03)

Contract Term: July 1, 2009 – June 30, 2012

Issuing Office: Maryland Health Care Commission

Issuing Office Point of Contact: Bridget A. Zombro
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215
410-764-3329
bzombro@mhcc.state.md.us

Procurement Officer: Sharon Wiggins
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215
410-764-3329
swiggins@mhcc.state.md.us

Contract Monitor: Bridget A. Zombro
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215
410-764-335593
bzombro@mhcc.state.md.us

Deadline for receipt of proposals: **Wednesday, May 20, 2009 @ 4:00 P.M local time**

Proposal(s) Received At: Sharon Wiggins
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215
410-764-3329
swiggins@mhcc.state.md.us

No Minority Business Enterprise subcontracting goal was established for the contract resulting from this solicitation; however, Certified Minority Business Enterprise vendors are encouraged to submit proposals.

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Acceptance of a contract resulting from this RFP indicates intent to comply with all conditions that are part of this solicitation document.

PART I

SPECIFIC REQUIREMENTS OF PROPOSED CONTRACT

1.0 INTRODUCTION

The Maryland Health Care Commission ("MHCC"), a unit of the Department of Health and Mental Hygiene of the State of Maryland, hereinafter called the "Department" or "Issuing Office" is soliciting proposals from qualified offerors to develop and implement a comprehensive public relations campaign for the Maryland Health Care Commission which results in enrollment in the Health Insurance Partnership program and increased awareness around our Consumer Guides, public reporting activities and the policy reports produced by our five Centers.

The MHCC intends to make a single award as a result of this RFP.

All communications regarding this RFP are to be made only by the Procurement Officer (see Key Information Summary Sheet). Information communicated by the Procurement Officer shall constitute the official position of MHCC.

2.0 BACKGROUND

The MHCC is an independent state agency located within the Department of Health and Mental Hygiene. Our fifteen Commissioners are appointed by the Governor with the advice and consent of the senate, come from communities across the state, and represent both the state's citizens and a broad range of other stakeholders.

Our mission is to plan for health system needs, promote informed decision-making, increase accountability, and improve access in a rapidly changing health care environment by providing timely and accurate information on availability, cost, and quality of services to policy makers, purchasers, providers and the public.

We pursue this mission through our information gathering and dissemination, our health planning and regulatory powers, and our health policy analyses. These important roles are managed among the Commission's five Centers.

During the Special Session of 2007 the General Assembly passed The Working Families and Small Business Health Coverage Act. This new law established a subsidy program to encourage more small employers to offer health insurance to their employees. This program, the Health Insurance Partnership, is administered by the Commission and began enrolling small businesses on September 9 for coverage beginning October 1. Employers have their choice of health benefit plans offered by CareFirst BCBS, Coventry Health Care, United Healthcare and Aetna.

The Partnership is specifically targeted at reducing the number of uninsured individuals in Maryland. Therefore, eligibility is limited to a small business that has 2 to 9 full-time employees, has not offered health insurance to its employees during the previous 12 months, and has an average wage below \$50,000. Businesses meeting these criteria may be eligible to receive a subsidy of up to 50% of the premium. The Partnership is expected to enroll over 1,500 businesses in its first year.

The Commission also has the responsibility to report healthcare quality and performance information to

Maryland citizens. Public reporting is done through our Consumer Guides, including the MHCC Hospital Guide, MHCC Nursing Home Guide and the MHCC HMO and PPO Guides. The Commission publishes two additional guides that provide general information about Maryland providers, without quality and price information: the Maryland Ambulatory Surgery Facility Guide and the Maryland Guide to Assisted Living Facilities. The Commission also provides a Guide to Purchasing Health Insurance for small business owners and employees, together with information about the Comprehensive Standard Health Benefit Plan (CSHBP).

Finally, the Commission has a long and distinguished history of publishing Maryland-specific data about health care expenditures and insurance coverage and performing data-driven analyses of a broad range of health policy issues.

3.0 PURPOSE

The purpose of this solicitation is to contract with a vendor experienced in public relations and media relations who can successfully perform two functions:

Improve outreach and enrollment into the Health Insurance Partnership. The successful vendor must:

- Inform target audiences about program details
- Small business owners
- Licensed insurance producers
- Trade Associations
- Local departments of health and economic development
- Health care providers
- Policymakers
- Promote Partnership through news media
- Develop cross-promotion opportunities with other state agencies
- Expand community awareness about the MHCC and its activities including, but not limited to, our Consumer Guides, Facility Guides, small business resources and health policy reports.

The Partnership outreach program must:

- Reach an estimated 1 million people in Maryland with information about Health Insurance Partnership to maximize enrollment effort
- Encourage at least 5,000 unique visits to MHCC website for information about reports and the Health Insurance Partnership

4.0 SERVICES TO BE PERFORMED

The Contractor shall perform the following duties as assigned by the MHCC:

- Place news stories in target trade publications and in the print media across 5 geographic areas in Maryland:

Eastern Shore
Western Maryland
Southern Maryland

Central Maryland (including Baltimore Metropolitan area)
Montgomery and Prince George's Counties

- Initiate and coordinate interviews with consumer and business media on topics
- Draft and disseminate media advisories announcing around press events aimed around launch of key Commission reports
- Write and place approved public service announcement with radio stations to promote enrollment in Health Insurance Partnership
- Solicit free promotion of the Health Insurance Partnership through ongoing media contacts

5.0 DELIVERABLES AND KEY PERFORMANCE INDICATORS

The Contractor shall provide:

- Communications strategy for promotion of Health Insurance Partnership
- Media list for outreach to target audience
- Sample script for three public service announcements (30 second) targeted to potentially eligible small business owners
- Coordination of press events and radio and television interviews
- Unique and widespread story placements

Outline of process

- MHCC will contact the Contractor with an outreach request.
- MHCC will meet with Contractor to finalize work plan;
- The Contractor shall not commence any activity assigned under this contract prior to MHCC approval

PART II

ORGANIZATION OF PROPOSAL

1.0 GENERAL FORMAT

1.1 Two-Part Submission

- A. Offerors shall submit in separate sealed envelopes technical and financial proposals in the following manner:
 - 1.) One original (to be so labeled) and *five* copies (one unbound and marked "PIA Copy"*) of the technical proposal in a sealed envelope clearly labeled "Technical Proposal"; and,
 - 2.) One original (to be so labeled) and five copies (one unbound and marked "PIA Copy"*) of the financial proposal in a sealed envelope clearly labeled "Financial Proposal".
*(see part IV, Section 1.4 for an explanation of this Public Information Act (PIA) copy)
- B. Each envelope shall, in addition, be labeled with the following:
 - 1.) the offeror's name and business address;
 - 2.) the due date/time for receipt of proposals; and
 - 3.) the title of the RFP.
- C. All pages in the technical proposal must be numbered, either consecutively from beginning to end, or consecutively by section.

1.2 Transmittal Letter

Technical proposals are to be accompanied by a brief transmittal letter prepared on the offeror's letterhead, and signed by an individual who is authorized to commit the offeror to the services and requirements as stated in the RFP and proposals. This transmittal letter shall include:

- A. The name, title, address, telephone number, and electronic mail address of the person authorized to bind the offeror to the contract, who will receive all official notices concerning this RFP; and
- B. The Offeror's Federal Tax Identification Number or Social Security Number.
- C. Acknowledgement of the receipt of any amendments/addenda to the RFP.

2.0 VOLUME I: TECHNICAL PROPOSAL

2.1 Format

Proposals shall be clear and precise and shall affirmatively address all points as outlined in Part I, Section 4.0*. All offerors shall present their technical proposal in the following manner:

- Statement of the Problem
- Proposed Work Plan
- Corporate Qualifications
- Experience of Proposed Staff
- Economic Benefit to the State of Maryland

1. **Statement of the Problem**

The Statement of the Problem shall demonstrate clearly that the offeror understands the Commission's objectives and goals in reporting information to the legislature, healthcare officials, and citizens of Maryland. The narrative should be no longer than five (5) pages.

2. **Proposed Work Plan**

The "Proposed Work Plan" should contain a description of the offeror's proposed plan to meet the requirements of the RFP. It should contain a detailed description of the likely methods and techniques the contractor would utilize in addressing the requirements outlined in Part I, Section 4.0 and 5.0. This section shall include a Gantt chart which shows:

- a. A scheduling matrix of the Contractor/Subcontractor staff utilization in hours for meeting the requirements in Part 1, Sections 4.5 and 5.0. This matrix should be based on the estimated usage of 40 hours per month. These hours are contingent and are not guaranteed to be utilized.
- b. A list of the Contractor/Subcontractor staff that will be dedicated to this contract during the duration of the contract; and
- c. Any provision or input that the offeror will require from the Commission.

The proposed work plan should also demonstrate the capacity of the offeror to successfully manage the overall project and subordinate tasks as established in Part I, Sections 4.0 and 5.0. The work plan should include an outline of the management practices employed by the firm and the project management plan including control mechanisms used for projects requiring staff skill mixes and changing workloads over the three-year contract period, including a description of how subcontractors will be used, if applicable.

3. **Corporate Qualifications**

This section should describe overall capabilities of the organization to meet the requirements and timeframes of the RFP. Include descriptions of selected engagements for other clients involving services similar to those requested by this RFP that were successfully performed by the offeror. A minimum of three references from firms or organizations for which work of a similar or related nature to this RFP was completed should be included. Each reference should identify the name of each organization, point of contact and telephone number. The Commission staff shall have the right to contact these or any other references of its choosing, as part of the evaluation and selection process, or to not contact some or all references if deemed appropriate.

The offeror shall submit an organization chart delineating lines of control between the contract staff and organization's senior management. A discussion accompanying the organization chart shall

describe how senior management will monitor contract performance and ensure quality.

The offeror shall provide a legal action summary that includes:

- a. A statement as to whether there are any outstanding legal actions or potential claims against the offeror and a brief description of any such action.
- b. A brief description of any settled or closed legal actions or claims against the offeror over the past five years.
- c. A description of any judgments against the offeror within the past five year (5) years, including the case name, court number, and what the final ruling or determination was from the court.
- d. Instances where litigation is ongoing and the offeror has been directed not to disclose information by the court provide the name of the judge and the location of the court.

As part of the its offer, each offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years. For each identified contract the offeror is to provide:

- a. The State contracting entity
- b. A brief description of the services/goods provided
- c. The dollar value of the contract
- d. The term of the contract
- e. The State employee contract person (name, title, telephone number, and, if known, e-mail address)
- f. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the RFP.

4. **Experience and Qualifications of Proposed Staff**

This section describes how each proposed staff's experiences relate to their specific responsibilities as detailed in the work plan for this procurement. In addition, the offeror shall describe the experiences that proposed shall have had working with other clients. The offeror shall include individual resumes for all personnel that are to be assigned to this project. Subcontractors, if any, must be identified and a detailed description of their contributing role relative to the work called for in this solicitation. Letters of intended commitment to work of the project from all personnel, including subcontractors, should be included in the proposal.

The offerors must also explain how it will be able to maintain its independence and objectivity in carrying out the requirements of this RFP.

5. **Economic Benefit to the State**

The offeror shall describe the benefits that will accrue to the Maryland economy as a direct or indirect result of the offeror's performance of the contract resulting from this RFP. Offerors shall not include

any detail of the financial proposal within this technical information. Economics benefits include:

- a. An estimate of the percentage of contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers, and joint venture partners. Offerors should be as specific as possible and provide a breakdown of expenditures in this category.
- b. The numbers of types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification, and the aggregate payroll to which the contractor has committed at both prime and, if applicable, subcontract levels.
- c. Tax revenues to be generated for Maryland and its political subdivisions as a result of this contract. Indicate tax category (sales tax, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from this contract.
- d. The estimated percentage of subcontractor dollars committed to Maryland small businesses and MBEs.
- e. In addition to the factors listed above, the offeror should explain any other economic benefit to the State of Maryland that would result from the offeror's proposal.

2.2 Summary of items to be completed and submitted with Technical Proposal

- 1.) Bid/Proposal Affidavit
State procurement regulations require that each proposal submitted by an offeror include a Bid/Proposal Affidavit. A copy of this Affidavit is included as Appendix A of Part VI of this RFP.
- 2.) References
- 3.) Organizational Chart
- 4.) Fiscal Integrity Documentation
- 5.) Legal Action Summary
- 6.) Past State Experience
- 7.) Economic Benefit to the State
- 8.) Confidentiality Statement w/justification (identify any sections of the proposal that are considered "trade secrets" and/or confidential or proprietary information. For a detailed explanation of this requirement, see Part IV, Section 1.4 Confidentiality of Proposals).
- 9.) Living Wage Affidavit

3.0 Volume II: FINANCIAL PROPOSAL

3.1 Format

Offerors shall enter all price information on Appendix A : Financial Proposal Sheet and submit it under **separate sealed cover** as described in Part II, Section 1.1 above. The fixed work consists of work described under Part I, Sections 4.0. The offeror should assume 480 hours of work annually will be conducted under this RFP.

3.2 Summary of items to be completed and submitted with the Financial Proposal

- 1.) Confidentiality Statement w/ justification (Identify any sections of the proposal that are considered "trade secrets" and/or confidential or proprietary information. For a detailed explanation of this requirement, see Part IV, Section 1.4 Confidentiality of Proposals).

PART III

EVALUATION AND SELECTION PROCEDURE

1.0 Evaluation Committee

A committee will conduct the evaluation of proposals. Proposals will be reviewed as a preliminary matter by the Procurement Officer to determine if they meet any minimum requirements set forth in the Key Information Summary and Part I, section 1.0. Proposals that do not meet the minimum requirements, or are otherwise found not reasonably susceptible for award will not be considered further and the financial proposal will be returned unopened. During the evaluation process, the committee may request technical assistance from any source. Technical proposals will be evaluated in accordance with the criteria listed in Part III, Section 1.1 below.

The financial proposals will not be distributed to the committee until the technical evaluation is completed. Alternatively, a separate committee may be established to evaluate financial proposals concurrently with the committee that is evaluating the technical proposals. In this case, the separate committees may have no contact with each other until the time that both committees have completed their assigned tasks.

1.1 Evaluation Criteria

The evaluation criteria set forth below are arranged in descending order of importance.

1. Proposed work plan
2. Demonstrated understanding of scope of work
3. Experience and qualifications of the proposed staff
4. Corporate qualifications
5. Economic Benefit to the State of Maryland

1.2 Evaluation Process

The Procurement Officer will first determine if all minimum requirements as specified in the RFP. Any offeror who does not meet minimum requirements will be declared "not responsible." If this determination is made at this point the offeror's proposal will be returned without opening the financial portion. The committee will then evaluate each technical proposal using the evaluation criteria set forth above. As part of this evaluation, the Committee may hold discussions with all qualified or potentially qualified offerors (see Section 1.3 below). Only those offerors whose technical proposals are ultimately deemed reasonably susceptible of being selected for award and who are determined "responsible" will be considered "qualified offerors." Accordingly, if the committee, with the concurrence of the Procurement Officer, determines at any time that an offeror is not reasonably susceptible of being selected for award, or the Procurement Officer determines an offeror not to be responsible, that offeror will be notified and the financial proposal returned unopened if possible.

Following the completion of the technical evaluation of all offerors, including any discussions, the committee will rank each qualified offeror's technical proposal. Unless there is a separate evaluation

team to review financial proposals, the financial proposal of each qualified offeror will then be distributed to the committee. The committee may then reenter into discussions concerning the qualified proposals. Unless already evaluated by the financial team, at this point the committee will rank each offeror's financial proposal from lowest to highest cost to the State. Then, if it is determined to be in the best interest of the State, the Procurement Officer may invite offerors to make final revisions to their technical and/or financial proposals through submission of a Best and Final Offer (See Part III, Section 1.4).

The committee will recommend the offeror whose overall proposal provides the most advantageous offer to the State considering price and the evaluation criteria set forth in the RFP. In the case of multiple awards the next advantageous, and the next after that up to the number stated in Part I, Section 1.0, will also be recommended. In arriving at this recommendation, the technical proposal will be afforded **more** weight than the financial proposal. If, however, the technical ranking is essentially equal for two or more offerors, the cost as described in the financial proposal may become the primary determinant of award.

As permitted by COMAR 21.05.03.03A(6), the Procurement Officer and agency head may accept or decline any or all recommendations from the committee. Nevertheless, in each case, the criteria set forth in Part III, Section 1.1 will govern decisions.

The MHCC will notify all offerors of the outcome of the solicitation. If an MBE subcontracting goal was established for this solicitation, the notification will include instructions and the deadline for the recommended offeror to submit the remaining MBE documentation: *Outreach Efforts Compliance Statement (MBE Attachment C)* and *MBE Subcontractor Project Participation Statement (MBE Attachment D)*. Once all contract approvals have been obtained, notice of award of the contract will be published by the MHCC in the Maryland eMM.

1.3 Discussions

The Evaluation Committee may enter into discussions with qualified or potentially qualified offerors as set forth in COMAR 21.05.03.03.C. Discussions, however, need not occur (See COMAR 21.05.03.02.A (4)). Offerors may be asked to participate in face-to-face discussions with the committee or other State representatives concerning either or both their technical or financial proposals. Discussions may also be conducted via teleconference or may take the form of questions to be answered by the offerors and conducted by mail, E-mail, or facsimile transmission at the discretion of the MHCC.

1.4 Best and Final Offers

When it is deemed in the best interest of the State, the Procurement Officer may permit qualified offerors to revise either their initial technical or initial financial proposal or both initial proposals by submitting a Best and Final Offer (BAFO). The Procurement Officer shall notify each qualified offeror of the scope of the requested BAFO, and shall establish a date and time for the offeror's submission. The Procurement Officer may require more than one series of discussions and BAFOs for either or both proposals if the agency head or designee makes a determination that it is in the State's best interest to conduct additional discussions or change the MHCC's requirements and require another submission of a BAFO. If more than one BAFO is requested, an offeror's immediate previous offer shall be construed as its best and final offer unless the offeror submits a timely notice of withdrawal or another BAFO. The Procurement Officer may consult with and seek the recommendation of the

Evaluation Committee during the best and final offer process.

1.5 Debriefing of Unsuccessful Offerors

Unsuccessful offerors shall be debriefed upon their written request to the Procurement Officer. The MHCC shall honor requests for debriefings at the earliest permissible time.

1.6 Protests

The State of Maryland provides formal procedures for any offeror to protest the award, or the proposed award, of a contract. All protests must be filed in accordance with Md. Code Ann., St. Fin. & Proc. §15-215 through §15-223 and with COMAR 21.10.02.

PART IV

GENERAL INFORMATION AND INSTRUCTIONS

1.0 PROPOSAL INFORMATION

NO PRE-PROPOSAL CONFERENCE WILL BE HELD.

1.1 Questions and Inquiries

Questions may be submitted in writing to the Procurement Officer until Monday, April 27, 2009. As practical and appropriate, the answers to these pre-submitted questions will be posted to eMaryland Marketplace two weeks after publication of the solicitation on Friday, May 1, 2009.

Should a potential offeror identify alleged ambiguities in the specifications or contract provisions included in this RFP, or should there be doubt as to the meaning or intent of any section or subsection herein, the potential offeror must request clarification from the Procurement Officer prior to the proposal due date. Failure to do so may prevent consideration of a future protest. (see COMAR 21.10.02.03).

1.2 RFP Revisions

If it becomes necessary to revise any part of this RFP, addenda will be provided to all persons who are known by the Procurement Officer to have received the RFP. Acknowledgement of the receipt of all amendments, addenda, and changes issued shall be required from all persons receiving the RFP. Failure to acknowledge receipt of addenda will not excuse any failure to comply with the contents of the addenda.

1.3 Confidentiality of Proposals

The copy marked "PIA" of any proposal submitted in response to this RFP must identify all parts of the technical and financial proposal that the offeror deems to contain trade secrets or information of a confidential and/or proprietary nature. (see Part II, section 1.1,A) This copy must also include a statement by the offeror regarding the rationale for the parts so identified. Compliance with this requirement is set forth in Part IV, Section 2.14, #2. Note that a blanket statement by an offeror that its entire proposal is confidential or proprietary is unacceptable.

1.4 Duration of Offer

A proposal submitted in response to this solicitation is binding upon the offeror and is considered irrevocable for a minimum of 120 days following the closing date for receipt of initial proposals or the closing date for or receipt of a best and final offer, if any. This period may be extended by written mutual agreement between the offeror and the State.

1.5 Modifications or Withdrawals

Proposals may be modified or withdrawn by written notice to the Issuing Office prior to the closing date/deadline for receiving proposals. A facsimile transmission or telegram is also acceptable for this purpose; however, offerors are advised to document the exact date/time of transmission. A printed fax confirmation sheet is sufficient or, in the case of a telegram, a written confirmation from the telegraph office showing the date/time that the original message was received from the offeror at the telegraph office.

1.6 Late Actions

A proposal, request to withdraw a proposal, or a modification to a proposal is late, if the Issuing Office does not receive it by the closing date and time at the place designated for receipt of proposals (See Key Information Summary Sheet). A late proposal, late request for withdrawal or late modification will not be considered, except under the following circumstances:

- A. When a late proposal is received before contract award and the proposal, the modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or by the action or inaction of their employees.
- B. A late modification of a successful proposal, which makes its terms more favorable to the State, shall be considered at any time it is received and may be accepted at the sole discretion of the State. (See COMAR 21.05.02.10)

1.7 Rights of Procurement Officer

The Procurement Officer reserves the right to cancel this RFP, in whole or in part, to reject any or all proposals, to waive minor irregularities in proposals, and/or to allow the offeror to correct a minor irregularity if the best interest of the State will be served by so doing. Additionally, the Procurement Officer, at his/her discretion, may negotiate with all qualified (or potentially qualified) offerors in an effort to serve the best interests of the State of Maryland.

1.8 Incurred expenses

The State of Maryland is not responsible for any expenses incurred by the offeror in preparing and submitting a proposal in response to this RFP.

1.9 Multiple Proposals

An offeror **may not** submit multiple proposals in response to this solicitation.

1.10 Alternate Proposals

An offeror **may not** submit an alternate proposal in response to this RFP.

1.11 Corporate Registration/Verification of Tax Payment

All corporations doing business in Maryland are required by law to be registered with the State of Maryland's Department of Assessments and Taxation, and Department of Labor, Licensing and Regulation. Corporations that are not incorporated within the State of Maryland are required to have a resident agent. The resident agent must be either an individual (not the corporation itself) with an address within the boundaries of Maryland

or a corporation that represents other corporations as a resident agent. Further, both corporations and individuals must verify that they carry no tax liability by contacting the Comptroller's Office.

The successful offeror shall be responsible for ensuring that all subcontractors meet these requirements, and further, that the contractor and all subcontractors shall meet these requirements for the duration of the contract, including option years.

Any potential offeror who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation, at (410) 767-1330. It is strongly recommended that potential offerors and subcontractors be completely registered prior to the due date for receipt of proposals. Failure to register may result in an offeror's proposal being deemed unacceptable.

1.12 Reserved

This subsection has been left intentionally blank.

1.13 Delivery/Handling of Proposals

Offerors may either mail or hand-deliver proposals. Hand-delivery includes delivery by commercial carrier. For any type of direct (non-mail) delivery, offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. (See Part VI, Appendix B, "Standard Addendum for the Means of Delivering Bids and Proposals.")

Proposals will not be opened publicly, but will be opened in the presence of at least two State employees. After the established due date, a Register of Proposals will be prepared that identifies each offeror. The register of proposals will be open to inspection only after the procurement officer makes a determination recommending the award of the contract.

Proposals and modifications will be shown only to State employees, members of the Evaluation Committee, or other persons, deemed by the Department to have a legitimate interest in them.

1.14 MBE Requirements

The MBE subcontracting goal for any contract(s) resulting from this solicitation is 0%. Minority businesses are strongly encouraged to submit an offer in response to this RFP.

2.0 CONTRACT INFORMATION

2.1 Duration of Contract

The contract(s) resulting from this RFP shall be for a period as stated on the Key Information Summary Sheet. All options shall be exercised at the sole discretion of the State and shall comply with all terms and conditions in force at the time the option exercised.

2.2 Invoicing/Payment/Retainage/Withholding

A. Invoicing

The contractor shall bill the MHCC *monthly including date invoice(s) due by the 15th day of each month,*

Invoices must be addressed to:

Bridget A. Zombro
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215

with one copy of this invoice, marked "copy", submitted to:

Denise Ridgley
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215

All invoices must (at a minimum) be signed and dated in addition to including the vendor's mailing address, the vendor's Social Security number or Federal Tax ID number, the State's assigned contract control number and ADPICS number, the goods/services provided, the time period covered by the invoice, and the amount of requested payment.

B. Payment

1.) The contractor shall submit an invoice for progress payment as described above in B.1, by deliverable:

- a.) In accordance with the schedule included in B.2.d;
- b.) With a completed certification of acceptance by the contract monitor (or designee) of the specified deliverable and any intermediate deliverables; and
- c.) No later than the 15th day of the month following acceptance by the contract monitor (or designee) of the specified deliverable.
- d.) Payments will be made by the MHCC in response to a properly submitted invoice in accordance with the following schedule of deliverables in accordance with Part I, section 4.0, Services To Be Performed. There may be no progress payment for any deliverable that is deficient or unsatisfactory, or otherwise unacceptable to the MHCC.

Electronic Funds Transfer (EFT) is available. If the Contractor prefers payment via electronic funds transfer rather than via check, register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form (**Appendix E**).

The MHCC reserves the right to reduce or withhold contract payment in the event the contractor does not provide the MHCC with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract. Any action on the part of the MHCC, or dispute of action by the contractor, shall be in accordance with the provisions of Md. Code Ann. St. Fin. & Proc. §15-215

through §15-223 and with COMAR 21.10.02.

- C. Funding for any contract(s) resulting from this RFP is dependent upon appropriations from the Maryland General Assembly.

Prompt Pay Requirements

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts.

2.3 Contract Type

The contract resulting from this RFP will be an Indefinite Quantity Contract with Fixed Unit Prices as described in COMAR 21.06.03.06.

2.3 Subcontracting

With prior written approval by the MHCC, the successful offeror may subcontract certain elements of a contract awarded as a result of this RFP. Notwithstanding any subcontracting arrangement, the successful offeror shall be held fully responsible to the MHCC for the proper accomplishment of all elements of the contract.

All subcontractors must be identified in the offeror's proposal, including a description of the subcontractor's role in the performance of the contract.

Subcontractors must meet the same mandatory requirements as the primary contractor, and will have to comply with the provisions of this RFP concerning staff qualifications and experience for the specific levels of services required for this contract.

2.4 Contract Document

Part V of this RFP will serve as the contract between the MHCC and the successful offeror for goods/services detailed in Part I of this RFP. All requirements, conditions, and stipulations contained therein shall prevail once all mandated approvals have been received and the Maryland Health Care Commission and the successful vendor execute the contract.

2.5 Contract Affidavit

All offerors are advised that, if a contract is awarded as a result of this RFP, the successful offeror will be required to complete a Contract Affidavit as set forth in **Appendix D**. The Contract Affidavit must be submitted within ten (10) business days of being notified of being recommended for award.

2.6 Amendments

Any amendment to this contract must first be agreed to in writing by both parties and approved by the Procurement Officer, or other authorized officer of the MHCC, subject to any additional approvals as may be required by State law. No amendment to this contract shall be binding unless so approved.

2.7 Substitution of Personnel

All personnel described in the contractor's proposal, or identified at the initiation of the contract, shall perform continuously for the duration of the contract, and for so long as performance is satisfactory to the MHCC's Contract Monitor. The Contract Monitor will give written notice of performance issues to the contractor, clearly describing the problem and delineating remediation requirement(s). The contractor shall respond with a written remediation plan within three business days and implement the plan immediately upon written acceptance of the Contract Monitor. If performance issues persist, the MHCC's Contract Monitor may give written notice or request the immediate removal of person(s) whose performance is at issue, including the Director of Operations, and determine whether a substitution is required.

The contractor may not substitute personnel, other than by reason of an individual's death, sudden illness or termination of employment, without the prior written approval of the Contract Monitor. To replace any personnel specified in the contractor's proposal, the contractor shall submit the resumes of the proposed substitute personnel to the Contract Monitor for approval at least two weeks prior to the effective date of substitution. All proposed substitute personnel shall have qualifications at least equal to those of the replaced personnel, and shall be approved by the Contract Monitor.

2.8 Reciprocal Preferences

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference to be applied to the contract award herein does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

2.9 Reserved

2.10 Reserved

2.11 Reserved

2.14 Standard Contract Clauses

All vendors should thoroughly review the following mandatory contract clauses. Upon contract award, the successful offeror will be required to fully abide by these provisions in addition to the actual delivery of services as detailed in Part I of this RFP.

Both parties agree that the following standard contract provisions are hereby incorporated into and made an integral part of this RFP and resulting contract(s), if any.

1. FINANCIAL DISCLOSURE

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other

agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

2. PUBLIC INFORMATION ACT NOTICE

Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why the identified materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. The justification in support of non-disclosure must accompany the PIA copy of the proposal. Upon request for information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed. A blanket statement by an offeror that its entire proposal is confidential or proprietary is unacceptable.

3. APPROVALS

This contract may be subject to approval by the Office of the Attorney General, the Maryland Department of Budget and Management, and the Board of Public Works.

4. MULTI-YEAR CONTRACTS

If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the MHCC's rights or the Contractor's rights under any other termination clause in the contract. The effect of termination of the contract hereunder will be to discharge both the Contractor and the MHCC from future performance of the contract, but not from their rights and obligations existing at the time of termination.

The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred, but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

5. MODIFICATION OF CONTRACT - GENERAL

This contract may be amended as the MHCC and the Contractor mutually agree in writing (subject to any necessary approvals of the Office of the Attorney General, Department of Budget and Management and, in certain cases, the Board of Public Works). No amendment may change significantly the scope of the original solicitation or, if none, the original contract. An amendment to this contract does not alter the other terms of the contract, except to the extent necessary to make them consistent with the amendment. This contract may not be amended to provide salary and wage increases for the Contractor's employees with the intention of making these increases consistent with salary and wage increases given to employees of the State except as provided in Title 10, Section 10-905 of the Health-General Article, Annotated Code of Maryland.

6. MODIFICATION OF CONTRACT - SALARY INCREASES AND EMERGENCIES

Subject to the approval of the Department of Budget and Management, the MHCC shall have the ability to supplement this contract for:

- A. Increases in salaries without consequent increases in deliverables if the increase in salaries results from increases in specific appropriations for that purpose, or
- B. unanticipated emergencies impairing the ability of the provider, through no fault of its own, to perform as per this contract.

7. NON - HIRING OF STATE EMPLOYEES

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as an official or employee include matters relating to or affecting the subject matter of this

contract, shall during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract.

8. CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Gov't. Article, §15-501 et seq.

9. DISPUTES

This contract shall be subject to the provisions of the Annotated Code of Maryland, State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10. In accordance with the requirement of COMAR 21.10.04.02 the Contractor must file a written notice of a claim with the procurement officer within thirty days after the basis for the claim is known or should have been known, whichever is earlier, but no later than the date final payment is made under the contract. Pending a resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decisions.

10. MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

11. NON-DISCRIMINATION IN EMPLOYMENT

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

12. CONTINGENT FEE PROHIBITION

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this agreement.

13. TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct any deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the MHCC may terminate the contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the Department's option, become the State's property. The MHCC shall pay the Contractor fair and equitable

compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the MHCC can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

14. **TERMINATION FOR CONVENIENCE**

The MHCC may terminate the performance of work under this contract in accordance with this clause, in whole, or from time to time in part, whenever the Department shall determine that the termination is in the best interest of the State. The MHCC will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Contractor shall not be reimbursed for any anticipatory profits, which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

15. **TAX EXEMPTIONS**

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply.

16. **ARREARAGES**

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take any action as, from time to time hereafter, may be necessary to remain so qualified; and
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract if selected for contract award.

17. **NON-ASSIGNMENT**

The Contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the MHCC's contract monitor.

18. **DOCUMENTS RETENTION AND INSPECTION CLAUSE - OTHER THAN RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS**

The Contractor and sub-contractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

19. **DOCUMENTS RETENTION AND INSPECTION CLAUSE - RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS**

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements of Clause 18, above:

- A. That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly authorized representatives, shall be granted access to the Contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four years after the services are furnished under this contract; and
- B. That similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve-month period to be reimbursed through funds provided by this contract.

20. INDEMNITY (HOLD HARMLESS) CLAUSE

A. Definitions:

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the Contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and employees.
- (3) "Subcontractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

B. Indemnification by Contractors

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of the State

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph.

The State has no obligation to provide legal counsel or legal defense to the Contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

D. Notice of Cooperation in Litigation

The Contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against

the Contractor or its sub-contractors regarding any matter resulting from or relating to the Contractor's obligations under this contract, and will cooperate, assist and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's obligations under this contract.

21. COST AND PRICE CERTIFICATION

- A. The Contractor shall submit cost or price information and shall certify that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:
- (1) A negotiated contract if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or
 - (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.
- B. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

22. PAYMENT OF STATE OBLIGATIONS AND INTEREST

- A. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.
- B. Section 15-104 et seq. of the State Finance and Procurement Article, Annotated Code of Maryland, provides that the State shall remit payment to the Contractor within forty-five (45) days after receipt of a proper invoice pursuant to any authorized, written procurement contract. Except as provided in Section 15-105 of this Article, the State's failure to remit payment within this period may entitle the Contractor to interest at the rate specified in 15-104 of this Article, for the period that begins thirty one (31) calendar days after the receipt date. This amount, if paid, shall be in lieu of payment of any other late charge(s) by the State.
- C. For purposes of this contract, an amount will not be deemed "due and payable" and interest payments will not be authorized for late payments unless the following conditions have been met:
- (1) The amount invoiced is consistent with the amount agreed upon by the parties to the contract.
 - (2) The goods or services have been received by the State and the quantity received agrees with the quantity ordered.
 - (3) The goods or services meet the qualitative requirements of the contract and have been accepted by the State.
 - (4) The proper invoice has been received by the party or unit of government specified in the contract.
 - (5) The invoice is not in dispute.
 - (6) If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.
 - (7) If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.

- D. In order to receive payment of interest, the Contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date (i.e., the date of the check from the State Treasurer that pays the Contractor for the goods supplied or the service rendered) of the amount on which the interest accrued. Interest may not be claimed (1) if a claim has been filed under Title 15, State Finance and Procurement Article (Procurement Contract Administration and Dispute Resolution) Annotated Code of Maryland, (2) for more than one year following the 31st calendar day after the date that a proper invoice is received by a State agency, or (3) on an amount representing unpaid interest.

23. **INSPECTION OF PREMISES**

The Contractor agrees to permit authorized officials of the State to inspect, at reasonable times, its plant, place of business, job site, or any other location that is related to the performance of the contract.

24. **INCORPORATION BY REFERENCE**

All terms and conditions of the solicitation, and any amendments thereto, are made a part of this contract. In the event of contract award, the contract shall consist of the RFP, including all addenda, exhibits, and attachments, and the entire proposal submitted by the successful offeror except for any portions specifically excluded by contract. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

25. **SPECIFICATIONS**

All materials, equipment, supplies or services shall conform to Federal and State laws and regulations and to the specifications contained in the solicitation.

26. **DELIVERY AND ACCEPTANCE**

Delivery shall be made in accordance with the solicitation specifications. The State, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The State unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

27. **ANTI-BRIBERY**

Potential contractors and contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

28. **REGISTRATION**

In accordance with the Maryland Code Annotated, Corporations and Associations Article, §7-201 et seq., corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The Contractor shall be responsible for ensuring that all subcontractors meet these requirements, and further that the contractor and all subcontractors meet these requirements for the duration of the contract.

29. **EPA COMPLIANCE**

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

30. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

All materials, supplies, equipment, or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

31. PATENTS, COPYRIGHTS, TRADE SECRETS & INDEMNIFICATION

If the contractor furnishes any design, device, material, process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use the item or items. The contractor hereby grants to the MHCC a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

If any products furnished by the contractor become, or in the contractor's opinion are likely to become, the subject of a claim of infringement, the contractor will, at its option: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, MHCC, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

32. STATE CONTRACT PREVAILS

Whenever a Vendor/Contractor's Standard Contract is used along with this State's RFP document, including Section V of the RFP as the Contract document, this RFP document, including Section V of this RFP as the Contract document, shall prevail in the event of conflict between any provision of the two contracts when the State determines it to be in its best interest.

33. CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, § 13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as the procurement officer may determine to be appropriate for the convenience of the State.

34. RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Maryland Health Care Commission (MHCC).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to MHCC and shall become and remain the exclusive property of MHCC during and upon termination or completion of the services required to be performed under this contract.

MHCC shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

The contractor agrees that, at all times during the term of this contract and thereafter, the works created and services performed shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this contract are not works for hire for MHCC, the contractor hereby transfers and assigns to MHCC all of its rights, title and interest (including all intellectual property rights) to all products created under this contract,

and will cooperate reasonably with MHCC in effectuating and registering any necessary assignments.

The contractor shall report to the MHCC, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if markings are affixed, the MHCC shall have the right at any time to modify, remove, obliterate, or ignore the markings.

35. DELAYS AND EXTENSIONS OF TIME

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control without the fault or negligence of either the Contractor or the subcontractors or suppliers.

36. PRE-EXISTING REGULATIONS

In accordance with the provisions of the Annotated Code of Maryland, State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

37. POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with the Annotated Code of Maryland, Election Law Article, §§ 14-101—14-108, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, or an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

38. COMPLIANCE WITH LAWS

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take any action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It shall comply with all Federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- C. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

39. PROHIBITION OF SEXUAL HARASSMENT

The Contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the Contractor shall include

this clause, or a similar clause approved by MHCC, in all sub-contracts. The Contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

40. COMMERCIAL NONDISCRIMINATION

- A. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- B. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

41. Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see **Attachment F** entitled Living Wage Requirements for Service Contracts). If the Offeror fails to submit and complete the Affidavit of Agreement, the State may determine an Offeror to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$11.30 per hour, if State contract services valued at 50% or more of the total value of the contract is performed in the Tier 1 Area. If State contract services valued at 50% or more of the total contract value is performed in the Tier 2 Area, an Offeror shall pay each covered employee at least \$8.50 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and

Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation has been deemed to be a Tier 1 contract.

NOTE: If the Offeror fails to submit and complete the Affidavit of Agreement, the MHCC may determine an Offeror to be not responsible.

Prompt Payment Directive – In accordance with the Directive by the Governor’s Office of Minority Affairs dated August 1, 2008:

1. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
 - 1.1. Not process further payments to the contractor until payment to the subcontractor is verified
 - 1.2. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - 1.3. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - 1.4. Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - 1.5. Take other or further actions as appropriate to resolve the withheld payment.
2. An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
3. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
 - 3.1. Affect the rights of the contracting parties under any other provision of law;
 - 3.2. Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
 - 3.3. Result in liability against or prejudice the rights of the Agency.
4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
5. To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
 - 5.1. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

- 5.2. This verification may include, as appropriate:
 - 5.2.1. Inspecting any relevant records of the contractor;
 - 5.2.2. Inspecting the jobsite; and
 - 5.2.3. Interviewing subcontractors and workers.
 - 5.2.4. Verification shall include a review of:
 - 5.2.4.1. The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
 - 5.2.4.2. The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
- 5.3. If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.
 - 5.3.1. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- 5.4. If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:
 - 5.4.1. Terminate the contract;
 - 5.4.2. Refer the matter to the Office of the Attorney General for appropriate action; or
 - 5.4.3. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.
- 5.5. Upon completion of the contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

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PART V

CONTRACT

Upon recommendation for award the offeror will be instructed to complete, sign and date the pages of this section. In so doing, the offeror binds itself to all of the provisions, terms, and specifications contained in the contract.

- A. PARTIES TO THE CONTRACT -- Each party to this agreement represents and warrants to the other that it has the full right, power, and authority to execute this contract. The contractual agreement resulting from this RFP, **MHCC 09-012**, is by and between _____, hereinafter called the *Contractor* or the *Vendor*, and the **Maryland Health Care Commission**, a unit of the State of Maryland Department of Health and Mental Hygiene, hereinafter called the *State*, the *MHCC*, *Department*, and/or *DHMH*.

IN CONSIDERATION OF the premises and the covenants herein contained, the parties agree as follows:

- B. CONTRACT TERM AND PRICE-- The official commencement and termination dates of the original contract period and any options, and the total contract price including any options shall be:

Contract Term	Begin	End	Amount
Base Contract	_____	_____	\$ _____
Option #1 (if any)	_____	_____	\$ _____
Option #2 (if any)	_____	_____	\$ _____

Total Amount of Options \$ _____

Total Potential Cost of Contract with Options \$ _____

- D. CONTRACT AND APPROVAL IDENTIFIERS -- Identifiers for this contract shall include, but not necessarily be limited to:

The Contract Number: **MHCC 09-012**

ADPICS Number: _____

EMaryland Market Place Contractor Registration Number*: _____

*Note: Contract will not be awarded without eMM registration number.

E. INCORPORATION BY REFERENCE

This contract, identified in Section D of this Part V consists of the RFP document **MHCC 09-012** Parts I through VI, including all Exhibits, Appendices and Addenda, and the successful offeror's entire final proposal including both the financial and the technical elements dated _____ (technical element) _____ (financial element), which are incorporated into this contract by reference.

Note: Incorporation by reference does not necessarily create a public record permissible for disclosure.

In Witness Whereof, the parties hereto have set their hands and seals:

(Signatory for the **CONTRACTOR**)

By: _____

(Signature)

Name(Typed)

Title(Typed)

Date

(Signatory for the **Maryland Health Care Commission**
shall be the **Executive Director** or designee)

By: _____

Rex W. Cowdry, Executive Director

OR DESIGNEE

(Signature)

Name(Typed)

Title(Typed)

Date of signing by Secretary or Designee

Approved as to form and Legal Sufficiency

This _____ day of _____ 20 _____

By: _____
Name

Name (Typed)

PART VI
APPENDICES

FINANCIAL PROPOSAL SHEET

Hourly Rate _____ * 40 hours (per month) * 12 months (per year) = _____ (A)

Hourly Rate _____ * 40 hours (per month) * 12 months (per year) = _____ (B)

Hourly Rate _____ * 40 hours (per month) * 12 months (per year) = _____ (C)

TOTAL PROPOSED CONTRACT PRICE = Line A + Line B + Line C = \$ _____
(Basis for Award)

NOTE #1: MHCC intends to make a Single Award as a result of this solicitation. The Contract that results from this RFP shall be an Indefinite Quantity Contract with fixed unit prices as described in COMAR 21.06.03.06 with respect to the Hourly Labor Rate. The quantities indicated in "Total Proposed Contract Price" are not a guarantee of any minimum or maximum amounts under this contract and may change during the term of the contract.

NOTE #2: All proposed Prices entered above are to be fully loaded prices that include all cost/expenses associated with the provision of services as required by this RFP. The proposed prices shall include, but are not limited to: Labor, Profit/Overhead, General Operating and all other expenses. No other amounts will be paid to the Contractor .

**MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Standard Addendum for the Means of Delivering Bids or Proposals**

Any bid or proposal due to any unit of the Maryland Department of Health and Mental Hygiene shall be delivered/transmitted as described in this addendum. The failure of any bidder or offeror to follow these instructions may result in its bid or offer not being received by the due time and date, which will result in the rejection of that bid or offer.

There are three acceptable means of delivering/transmitting a bid or offer:

1. The United States Postal Service;
2. Hand delivery by the bidder/offeror itself; and
3. Hand delivery by a commercial delivery/courier company acting as an agent of the bidder/offeror.

For U. S. Postal Service Deliveries

For U.S. Postal Service deliveries, any bid or proposal which has been received at the appropriate mailroom or typical place of mail receipt for the respective procuring unit by the time and date listed in the RFP or specifications will be deemed to be timely.

If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only.

These are the only forms of U.S. Postal Delivery for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will, therefore, not be able to prove a timely delivery at the mailroom. It may take several days for an item sent by first class mail to make its way by normal internal mail pickup to a procuring unit's bid box.

**For Hand Deliveries by Vendors and Deliveries
By Commercial Courier Services**

These deliveries must be delivered directly to the room or location specified in the RFP or solicitation and placed in the designated bid box. A bidder who uses a commercial courier service must take appropriate action to ensure that the courier actually delivers the bid/offer to the specified location and not to the Department's mailroom or loading dock. The bid/offer will not be deemed to have been received until it is placed in the designated bid box.

For any type of hand delivery, the vendor or its commercial courier services should request a signed receipt from a procuring unit employee which notes the title of the procurement, the name of the vendor, and the time and date of receipt at the bid box.

Identifying Information

All envelopes containing bids or offers, no matter how transmitted, must contain this information prominently displayed:

- either "Sealed Bid" or "Sealed Proposal," as appropriate;

- the exact title of the bid or proposal as noted in the RFP or specifications;
- the due time and date; and
- the name of the bidder/offeror.

Questions on any of these requirements should be directed to the MHCC Contact person identified in the RFP or to Sharon M. Wiggins, Procurement Officer at (410) 764-3329.

Revised 08-08

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) _____ and the duly authorized representative of (business) _____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

“Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendors, supplier’s or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the state of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in

violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1) through (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B — C and subsections (1) through (8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions

and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to §16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the

compilation of the accompanying bid or offer that is being submitted;

- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State

Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

- (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
 - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
 - (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
 - (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
 - (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
 - (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution,

dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

- (1) The business named above is a (domestic) (foreign) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____

Address: _____

(If not applicable, so state).

- (2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____

(Authorized Representative and Affiant)

Revised March 30, 2007

CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title]_____ and the duly authorized representative of [name of business]

_____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic _____) (foreign _____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposal Affidavit dated _____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative and Affiant)

**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code:

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--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number:

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(or) Social Security Number:

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Business contact name, title, and phone number including area code. (And address if different from above).

Financial institution information:

Name and address _____

Contact name and phone number (include area code) _____

ABA number:

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Account number:

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Account type: ☐ Checking ☐ Money Market

A VOIDED CHECK from the bank account must be attached.

Transaction requested:

1. ☐ Initiate all disbursements via EFT to the above account.
2. ☐ Discontinue disbursements via EFT, effective _____
3. ☐ Change the bank account to above information – a copy of the approved Registration Form for the previous bank account must be attached. (OVER)

I am authorized by *_____ (hereinafter Company) to make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller, or chief financial officer and date

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____/_____/_____

State Treasurer's Office approval date

General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request. Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to:

EFT Registration
General Accounting Division
Room 205, P.O. Box 746
Annapolis, Maryland 21404-0746

COT/GAD X-10

Affidavit of Agreement**Maryland Living Wage Requirements-Service Contracts**

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- ☐ Bidder/Offeror is a nonprofit organization
☐ Bidder/Offeror is a public service company
☐ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
☐ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- ☐ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract
☐ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative:

Signature of Authorized Representative

Date

Title

Witness Name (Typed or Printed)

Witness Signature

Date



MARTIN O'MALLEY, Governor
ANTHONY G. BROWN, Lt. Governor
THOMAS E. PEREZ, Secretary

Division of Labor and Industry
J. Ronald DeJuliis, Commissioner

NOTICE TO ALL SERVICE CONTRACT VENDORS

From: J. Ronald DeJuliis, Commissioner, Division of Labor and Industry

Date: September 30, 2008

Re: 2008 Living Wage Rate Increase

The Maryland Living Wage Law requires contractors and subcontractors working on certain State service contracts to pay the State's living wage rate to certain employees. The Commissioner of Labor and Industry administers and enforces the law. The Living Wage Law requires that the Commissioner adjust the living wage rate annually based upon changes to the Consumer Price Index (CPI). The CPI reflected a 3.7% increase in its annual average. Effective September 28, 2008, the Commissioner has adjusted the living wage rate from \$11.30 to \$11.72 for work performed in Tier 1¹ and adjusted from \$8.50 to \$8.81 for work performed in Tier 2.²

If additional information is needed, please contact the Division of Labor and industry, Living Wage Unit by email at livingwage@dllr.state.md.us or visit the DLLR website at www.dllr.state.md.us/labor.

¹Tier 1 includes Montgomery County, Prince George's County, Howard County, Anne Arundel County, Baltimore County, and Baltimore City.

² Tier 2 includes all other areas in the State of Maryland.

